IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH, JAIPUR

:JUDGMENT:

M/S TRINITY COMBINES ASSOCIATES PVT.LTD.JAIPUR AND ANR.
VS
PRABHU DAYAL AND ANR.

D.B.CIVIL SPECIAL APPEAL (CO.) NO.232 OF 2006
UNDER SECTION 18 OF THE RAJASTHAN HIGH COURT ORDINANCE AGAINST THE ORDER DATED 13.10.2006 PASSED IN SB COMPANY APPEAL NO.05/2000 AND 3/2000

DATE OF JUDGMENT :::::: 15.12.2006

PRESENT

HON'BLE MRS.GYAN SUDHA MISRA,J.
HON'BLE Dr.VINEET KOTHARI,J.

Mr. MM Ranjan for the appellants.
Mr. Mahendra Goyal for the respondents.

BY THE COURT:

This appeal has been preferred against the order of the Company Law Board as also the order of the learned Single Judge who had been pleased to uphold the order of the Company Law Board and had also been pleased to direct the appellant to handover the proceeds of the rented premises leased out to the company of which there were three share-holders. The respondent admittedly is a share-holder in this company and was entitled to the share of the property belonging to him-meaning thereby that they had inherited the joint family property and after division of six shops belonging to the joint family, two shops had fallen into the share of the respondent. The appellants are already availing the

benefits and profits of other four shops and in so far as the remaining two shops, which had fallen into the share of the respondent is concerned, the same cannot be held to have been handed over to the respondent as the amount generated from the rental income was not paid to them.

The respondent, therefore, had filed an application before the Company Law Board stating that the company, which had been formed for construction, sale, purchase as also letting out of the shops, was to be equally divided between the three share-holders but the appellants had the intention of grabbing the entire income of the Company by excluding the respondent.

The Company Law Board, after hearing all the contesting parties, was pleased to direct the appellants that they shall pay the entire income for the two shops to the respondent, which had fallen in his share and was also a part of the Company which had been jointly formed of all the three brothers. The appellants thereafter preferred an appeal before the learned Single Judge challenging the order of the Company Law Board but the same was also dismissed by order dated 13th October 2006. The learned Single Judge also discussed threadbare the entire dispute existing between the three brothers which had formed the Company and it was recorded that the respondent being the third partner having been deprived of his part of the income generated out of the property, which are two shops, had to be transferred to him. This

appeal has been preferred against the aforesaid orders of the Company Law Board as also against the order of the learned Single Judge as already stated hereinbefore.

The counsel for the appellants Mr. MM Ranjan appearing on behalf of the Company which is represented by one of the partners, challenged the orders of the courts below urging that the income generated out of the three portions of the premises, which also formed the part of the Company, should not have been ordered to be handed over solely to the respondent No.3 as also the income generated out of that portion.

We find no substance in this contention as admittedly these shops had been initially divided between the three brothers who later on formed a company to construct, sale, purchase as also to let out the premises and the third portion of the Company which had been fallen into the share of the respondent, obviously had to be handed over to the respondent being also an equal partner and share-holder of the Company.

We thus find substance in the order passed by the Courts below. Consequently, this appeal stands dismissed at the admission stage itself.

(Dr.VINEET KOTHARI)J. (GYAN SUDHA MISRA)J.

PCG